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May 2, 1997

Mr. William Caton  
Federal Communications Commission  
1919 M. Street, N.W.  
Room 222  
Washington, D.C. 20554

RE: In the Matter of American Communications Services, Inc.'s  
Petition for Declaratory Ruling Regarding Preemption of the Arkansas  
Telecommunications Regulatory Reform Act of 1997  
CC Docket No. 97-100


Dear Mr. Caton:

Enclosed for filing, please find an original and thirteen (13) copies of the Reply  
Comments of the Arkansas Telephone Association regarding the above referenced matter.

Kindly file the Reply Comments and return the extra file-marked copy to me in the  
enclosed self addressed stamped envelope I am providing for your convenience. I am  
mailing a copy of this letter and the Reply Comments to the individuals listed on the  
attached list on this 19th day of May, 1997.

With kindest regards.

Sincerely,

  
**GEORGE HOPKINS**  
Attorney at Law

GH/tp

enclosure: Reply Comments of the Arkansas Telephone Association

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Before the  
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Washington, D.C. 20554

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REPLY COMMENTS OF  
THE ARKANSAS TELEPHONE ASSOCIATION

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## **SUMMARY**

The ATA concurs with the comments by the Arkansas Attorney General ("Ark. Atty. Gen"), Southwestern Bell Telephone Company ("SWBT"), North Arkansas Telephone Company ("NATCO") and Alliant Communications Company ("Alliant"). The ATA opposes the comments that request preemption of the Arkansas Act and the Arkansas PSC's authority to implement the Federal Act.

The Arkansas General Assembly has the right to limit the Arkansas PSC to the authority provided by the Federal Act. The Arkansas Act's text is carefully worded to not violate the Federal Act. Further, the Arkansas PSC has the ability to properly implement the Federal Act's requirements. The Arkansas PSC is competent and capable of understanding the Federal Act. Any preemption is premature until the Arkansas PSC has implemented rules or procedures that conflict with the Federal Act. The ATA strongly opposes the idea that the Commission should use the Arkansas Act and the Arkansas PSC as examples to send a "decisive" message to state legislatures across the country.

The proponents of ACSI's petition have failed to establish any injury due to the Arkansas Act. The comments are long on generalities but short on specific injury. The proponents fail to show any telecommunications services the Arkansas PSC is unable to allow a CLEC to provide due to the Arkansas Act. The proponents of the petition have failed to meet their burden of proof that the Arkansas Act has prevented any CLEC from providing any telecommunication service.

The proponents of ACSI's petition have not established the text of the Arkansas Act is in violation of the Federal Act. An opponent of the Arkansas Act has admitted that the

Arkansas Act does not violate the Federal Act on interconnection. The issue is how the Arkansas PSC interprets and administers the Arkansas Act's provisions on interconnection. Until that interpretation is provided by rules and by action, any attempt to preempt is premature.

Thus far, the implementation of the Arkansas Act by the Arkansas PSC is in compliance with the Federal Act. The proponents of ACSI's petition have failed to establish the Arkansas PSC is unable to fulfill its duties. An analysis is attached to AT&T's comments and called the Arkansas PSC Staff Analysis. The analysis is inaccurate, unofficial, authored by person of unknown ability and not endorsed or approved by the Arkansas PSC. The analysis was premature, quickly prepared, and unreliable. The analysis should be disregarded. The burden is upon the proponents of ACSI's petition to establish that the Arkansas PSC cannot properly administer the interconnection provisions of the Federal Act.

The Arkansas Act complies with the Federal Act's universal service fund requirements. A proponent of the ACSI's petition admits the Arkansas Act may be read in such a way as to comply with the Federal Act's provisions. The issue again is interpretation. The ATA assumes the Arkansas PSC has the capability and understanding to properly interpret the Arkansas Act in a manner consistent with the Federal Act. Unless and until the Arkansas PSC demonstrates otherwise, the Commission should not preempt.

The Arkansas PSC has significant rule-making authority under the Arkansas Act and specifically under the Arkansas Act's universal service provisions. Rules have not been adopted and it is premature to find conflict with any Federal requirements. The petition ACSI should be denied.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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American Communications Services, Inc.'s	)	CC Docket No. 97-100
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**REPLY COMMENTS OF  
THE ARKANSAS TELEPHONE ASSOCIATION**

The Arkansas Telephone Association ("ATA"), pursuant to the Public Notice DA 97-652 in Docket No. 97-100, submits these Reply Comments. In this docket, American Communications Services, Inc. ("ACSI") has requested a declaratory ruling from the Federal Communications Commission ("Commission") to preempt the Arkansas Public Service Commission ("Arkansas PSC") from approving and arbitrating interconnection agreements. ACSI also requests preemption of the universal service fund provisions in the Arkansas Act. The ATA concurs with the comments of the Arkansas Attorney General ("Ark. Atty. Gen."), Southwestern Bell Telephone Company ("SWBT"), North Arkansas Telephone Company ("NATCO") and Alliant Communications Company ("Alliant"). The collective comments of the Ark. Atty. Gen., the ATA, SWBT, NATCO, and Alliant establish that the Arkansas Act is an appropriate state framework to implement the Federal Act. The ATA also agrees with the position of the Ark. Atty. Gen., SWBT, NATCO, and Alliant that the states, through their



legislatures, have the right to establish the procedural and substantive framework through which the state commissions (PSCs) implement the requirements of the Federal Act. The discussion by NATCO of the constitutional and legal basis for such rights is compelling.<sup>1</sup>

The comments in support of ACSI go all over the board. Each supporting comment seems to find different violations hiding in various sections of the Arkansas Act. Some argue the universal service fund provisions are directly in conflict with the Federal Act, while another argues the universal service fund provisions are not in conflict, on its face, but may conflict based upon adoption of federal rules and the interpretation provided the Arkansas Act.<sup>2</sup>

Most argue the Arkansas Act prevents the Arkansas PSC from properly implementing the Federal Act's interconnection and arbitration provisions. Another admits the interconnection and arbitration provisions are not in direct conflict unless improperly interpreted.<sup>3</sup> The conflicting positions of the proponents of ACSI's petition on the two (2) main objections of ACSI establish the Arkansas Act does not violate the Federal Act unless improperly implemented by the Arkansas PSC.

Alliant focused upon the real issue and noted, "ACSI seems to feel that Section 253 and Section 252 (e)(5) of the 1996 Act were intended by Congress to be a remedial haven for every party which perceives itself to be on the losing end of state legislative policy decisions."<sup>4</sup> ACSI

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<sup>1</sup> See NATCO Comments pp. 11-12

<sup>2</sup> See Sprint Comments p. 8

<sup>3</sup> See AT&T Comments footnote 1

<sup>4</sup> See Alliant Comments p.2

has admitted it has purchased network elements from SWBT.<sup>5</sup> It is a CLEC in Arkansas and is currently providing telecommunications services. Further, as the Ark. Atty. Gen. has established, the Arkansas PSC, by its actions in the SWBT-AT&T arbitration, is able and willing to take a proactive role in interconnections. The Arkansas PSC has not found the limitations in the Arkansas Act that ACSI feared.<sup>6</sup> ACSI's concerns are not justified by the actions the Arkansas PSC has taken.

SWBT agreed with the ATA that the ACSI's challenge to the Arkansas Act was a facial or textual challenge and not based on actual injury.<sup>7</sup> The ATA agrees with the Ark. Atty. Gen. and SWBT that ACSI must establish it is impossible for the Arkansas Act to be applied by the Arkansas PSC without violating the Federal Act.<sup>8</sup>

If the Arkansas PSC were extremely conservative and did not have the Arkansas Act as a guideline and only implemented the Federal Act to the extent required by the Federal Act, then the Federal Act would not be violated. Perhaps ACSI would argue that the Arkansas PSC is not liberal enough and the governor's appointment power should be preempted to enable the Commission to appoint the Arkansas Commissioners.<sup>9</sup> Such is not reasonable. The issue is not the source of conservatism, but whether conservatism is allowed. The ATA believes it is. The ATA views the comments of the proponents of ACSI to say that a conservative approach to

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<sup>5</sup> See ACSI Petition p. 3

<sup>6</sup> See Arkansas Atty. Gen. Comments pp. 10-14

<sup>7</sup> See SWBT Comments p. 14

<sup>8</sup> See Ark. Atty. Gen Comments p. 16; SWBT Comments p. 13

<sup>9</sup> In Arkansas, the Governor appoints the three commissioners of the Arkansas PSC Ark. Code Ann. §23-2-101 (e)(1)

competition violates the Federal Act. The comments seem to argue a state legislature cannot statutorily limit the policy choices of a state PSC to the "circle of authority" of the Federal Act.

If a governor appoints a very conservative state PSC and the state PSC implements only what is required in the Federal Act, then the Federal Act is not violated. If a governor can establish a conservative process by the person appointed as the decision maker, then a state legislature, through statute, may establish a conservative approach through the authority granted the decision maker.

The reply comments of the ATA will be categorized into three (3) main issues. First, ACSI and its proponents have not established any telecommunications services that cannot be provided or any injury caused to any potential provider by the passage of the Arkansas Act. Second, the wording of the Arkansas Act is consistent with the Federal Act. Third, the implementation of the Arkansas Act and the interpretation of the Arkansas Act by the Arkansas PSC are consistent with the Federal Act.

#### **I. ACSI AND ITS PROONENTS HAVE NOT ESTABLISHED ANY INJURY CAUSED BY THE ARKANSAS ACT**

The SWBT comments highlight the wording of the Arkansas Act that establishes the Arkansas is to be read in conformity with the Federal Act and provides the Arkansas PSC with authority to Act in accordance with the 1996 Act.<sup>10</sup> The Ark. Atty. Gen., NATCO, and SWBT provide quality discussions of the Commission's authority to preempt.<sup>11</sup> SWBT points out that

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<sup>10</sup> See SWBT Comments pp. 4-5

<sup>11</sup> See NATCO Comments pp. 6-12; Ark. Atty. Gen Comments pp 13-20; SWBT Comments pp. 15-18

the Commission may preempt enforcement of a local statute or regulation if it has the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.<sup>12</sup>

Neither ACSI nor any of the proponents of ACSI's position provide any specific injury which ACSI or any other provider has suffered. Neither ACSI nor any of its proponents have established any telecommunication service that it is incapable of providing due to the Arkansas Act. For instance, Sprint states that the Arkansas PSC "has effectively lost the ability to advance the cause of telecommunications competition in Arkansas, contrary to the expectations of Congress and the FCC".<sup>13</sup> This conclusion is not supported by any example or by the facts of how the Arkansas PSC has acted.

The comments of the Telecommunications Resalers Associations ("TRA") likewise are void of specifics. TRA states it represents more than five hundred entities.<sup>14</sup> TRA does not claim any injury to any of its members and does not state any telecommunication service that any of its members wish to provide but are prohibited from doing so by the Arkansas Act.<sup>15</sup>

TRA, lacking any listed injury to its members, argues the Commission should preempt the Arkansas Act to send a message. The TRA argues that the Arkansas Act will likely be only the first of series of legislative enactments designed to benefit ILECs.<sup>16</sup> TRA argues that "decisive"

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<sup>12</sup> See SWBT Comments p. 13

<sup>13</sup> See Sprint Comments p. 2

<sup>14</sup> See TRA Comments p.2

<sup>15</sup> See Generally Id

<sup>16</sup> See Id p.11

action is required by the Commission to derail the ILECs assault upon the Federal Act.<sup>17</sup> TRA sees preemption of Arkansas as a lever to apply to other states. For TRA to argue the Commission should use Arkansas as an “example” to force others into line is unreasonable.

The comments of the Association for Local Telecommunication Services (“ALTS”) discuss the “competition clearly envisioned by the 1996 Act[.]”<sup>18</sup> ALTS does not specify any telecommunications service its members cannot provide or any injury suffered by any of its members.

AT&T does not take a position on interconnection and arbitration, but focuses upon the universal service provisions of the Arkansas Act. It should be noted that AT&T admits, that taken as a whole, the universal service “provisions of the Arkansas Act ‘may have the effect’ of prohibiting carriers other than incumbent LECs from providing local service[.]”<sup>19</sup> “May” is not a word that justifies preemption prior to the Arkansas PSC’s interpretation of the Arkansas Act.

Careful review of the comments of proponents of ACSI’s petition does not establish any injury suffered or any telecommunication service that the Arkansas Act has prohibited. The proponents of ACSI’s petition have failed to establish it is impossible for the Arkansas Act to be applied by the Arkansas PSC without violating the Federal Act.

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<sup>17</sup> See *Id* p.13

<sup>18</sup> See ALTS Comments p. 2

<sup>19</sup> See AT&T Comments p. 5

## II. THE TEXT OF THE ARKANSAS ACT DOES NOT VIOLATE THE FEDERAL ACT

ACSI alleged several conflicts between the text of the Federal Act and the Arkansas Act. The comments of the Ark. Atty. Gen., the ATA, NATCO, and SWBT explain in detail why the Arkansas Act does not conflict with the Federal Act. The comments of the Ark. Atty. Gen., the ATA, NATCO, and SWBT establish the Arkansas Act is a tightly worded document that authorizes all required by the Federal Act, but limits actions outside the broad "circle of authority" of the Federal Act.

The penultimate issue is how the Arkansas PSC views the language of the Arkansas Act. Any person may try to provide interpretation to the wording of the Arkansas Act. The Arkansas PSC is the entity that provides the meaning that counts. Thus far, the Arkansas PSC has been proactive in its reading of the Arkansas Act as the Ark. Atty. Gen.'s comments establish.<sup>20</sup>

The comments of those filing in support of ACSI's petition is enlightening. The comments of AT&T and Sprint, taken together, establish any failure of the Arkansas Act would have to be upon its interpretation not its wording. The candor of AT&T on the issue of interconnection and arbitration is refreshing and remarkable. Footnote No. 1 of AT&T's comments provides AT&T's analysis on interconnections and arbitrations:

ACSI also contends that the Arkansas Act has constructively abolished the role of the Arkansas PSC in implementing the 1996 Act because the Arkansas legislation prohibits the PSC from requiring resale, interconnection, and access to unbundled network elements beyond what is required by the 1996 Act or the Commission's implementing regulations. See, e.g., Arkansas Act §§ 9 (d),(I). **The need for such Commission intervention, however, depends on how the Arkansas Act is interpreted and**

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<sup>20</sup> See Ark. Atty. Gen Comments p. 10

**applied.** AT&T believes that the 1996 Act authorizes the “requires” detailed regulation to implement the Act’s core substantive provisions that access and interconnection be provided at rates, terms and conditions that are just, reasonable and nondiscriminatory. For example, the Act may require a state commission to go beyond the “minimal” regulations established by the Commission’s implementing regulations, as the Commissions First Report and Order recognizes. Thus, if properly construed, the Arkansas Act should not restrict the ability of the PSC to implement the 1996 Act. On the other hand if the Arkansas Act is construed to bar the Arkansas PSC from considering any requirements beyond the Commission’s minimum regulations (*e.g.*, by limiting requesting carriers to the network elements prescribed in the First Report and Order), then the Arkansas legislation would appear to conflict with the 1996 Act, warranting Commission action.”<sup>21</sup> **(emphasis added)**

AT&T admits the need for Commission intervention on interconnections depends on how the Arkansas Act is interpreted and applied. AT&T admits that if the Arkansas Act is properly construed, the Act should not restrict the ability of the PSC to implement the Federal Act on interconnections. AT&T admits the text of the Arkansas Act may be interpreted by the Arkansas PSC to comply with the requirements of the Federal Act on interconnections.

The comments of Sprint are equally enlightening for Sprint’s admission concerning the universal service provisions. Sprint states:

Federal preemption of this portion of the Arkansas Act is premature. The FCC has not yet adopted high cost universal service support rules, and it is not entirely clear that Section 5(b) of the Arkansas Act is inconsistent with the federal statute or violates federal rules. Until federal rules are adopted, the FCC should refrain from overturning Arkansas’ state USF regulations. Where Section 5(b) of the Arkansas Act is ambiguous, Sprint offers below an interpretation which, if accepted, would render this section consistent with the intent and spirit of the Federal statute.<sup>22</sup>

Sprint effectively admits that the text of the Arkansas Act is not directly in conflict with

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<sup>21</sup> See AT&T Comments p. 2

<sup>22</sup> Sprint Comments pp. 8-9

the Federal Act. Sprint states the provisions may conflict with the new federal universal service rules. Sprint would like to impose its own interpretation of what should be in the Arkansas rules on universal service. However, Sprint admits the universal service provisions in the Arkansas Act may be interpreted in a manner that is consistent with the Federal Act. Even if some argue the new federal rules conflict, the ATA contends such is premature until the Arkansas PSC has been given full opportunity to use its proactive view of the Federal Act and the Arkansas Act to reconcile any perceived conflict.<sup>23</sup> The only interpretation of the Arkansas Act that has meaning at this time is the Arkansas PSC's interpretation. The Arkansas PSC's interpretation of universal service is not known.

AT&T attaches an analysis of Senate Bill 54, dated January 24, 1997, to its comments.<sup>24</sup> AT&T makes references to this analysis in its comments.<sup>25</sup> AT&T calls the analysis the "Arkansas PSC Staff Analysis"<sup>26</sup> The ATA has some points to make about the analysis. **In summary, the analysis is inaccurate, unofficial, authored by person of unknown ability and not endorsed by the Arkansas PSC.**

First, the analysis was not adopted by the Arkansas Public Service Commissioners. The Arkansas PSC has not approved or adopted the analysis as official or correct. The Arkansas PSC has not given the analysis any administrative approval or shown any indication it is bound by the author's analysis. The ATA is unaware of the Arkansas PSC using the analysis in any forum or

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<sup>23</sup> The Arkansas PSC has not yet adopted universal service rules

<sup>24</sup> AT&T Comments, Exhibit "A"

<sup>25</sup> See Id pp. 4-5

<sup>26</sup> Id fn. 2



proceeding.

Second, the source of the analysis is unidentified. Authorship has not been provided. It is unclear whether the analysis was prepared by an attorney, staff member, secretary, intern, or visitor. The analysis has not been sanctioned or endorsed by the Arkansas PSC. Whether any other analysis exists is unknown. The purpose for the analysis is not specified or clearly delineated. Its usage by the Arkansas PSC is never established.

Third, the analysis must have been prepared in haste. It should be noted the analysis is dated January 24, 1997.<sup>27</sup> The bill that became the Arkansas Act was filed January 15, 1997, only nine (9) days earlier.<sup>28</sup> Further, bill was amended on January 22, 1997. The analysis came just nine (9) days after the initial introduction and only two (2) days after the bill's amendment. The person providing the 19 page analysis did not have the benefit of time and careful consideration to examine the bill in detail prior to preparing this analysis.

Fourth, the analysis lacks accuracy. The inaccuracy begins in the definition section. The analysis states the definition of "basic local exchange service" establishes the services that will constitute basic local exchange service.<sup>29</sup> The analysis then states Section 4 (e) (2) of the bill provides that the commission may revise the list of universal services identified in Section 3 of the bill.<sup>30</sup>

In a leap of logic, the analyst assumed that since "basic local exchange service" was

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<sup>27</sup> Id p.1

<sup>28</sup> Id p.1

<sup>29</sup> Id p.2

<sup>30</sup> Id p.2

defined, then the Arkansas PSC could not change the list of universal services since the definition of basic local exchange service appeared static in the definitions.<sup>31</sup> However, the analyst failed to look at definition 27 on page 5 Senate Bill 54 (Arkansas Act). Definition 27 defines “universal service”.<sup>32</sup> The definition provides universal service “means those telecommunications services that are defined and listed in the definition of basic local exchange service **until changed** by the Commission pursuant to Section 4 (e) (3) of this Act.”<sup>33</sup> (emphasis added)

The analyst was just dead wrong. The argument that the definition of basic local exchange service was static and prevented the Arkansas PSC from adding to the list of universal services was inaccurate. An elementary reading of all the definitions would have prevented this error.

The comments filed by the Ark. Atty. Gen., the ATA, SWBT, NATCO, and Alliance explain in detail why the specific text of the Arkansas Act complies with the requirements of the Federal Act. The Arkansas PSC will decide the meaning and interpretation of the Arkansas Act. The Arkansas Act is yet to be fully interpreted by the Arkansas PSC. ACSI has not met the burden of proving the Arkansas PSC cannot interpret the Arkansas Act to comply with the Federal Act.

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<sup>31</sup> Id. p. 2

<sup>32</sup> See Arkansas Act Section 3 definition 27 on p. 5

<sup>33</sup> Id.

### **III. THE IMPLEMENTATION OF THE ARKANSAS ACT AND THE INTERPRETATION OF THE ARKANSAS ACT BY THE ARKANSAS PSC DOES NOT VIOLATE OF THE FEDERAL ACT.**

The comments of Sprint are typical of the comments filed by proponents of ACSI's petition. Sprint argues the Arkansas PSC "has effectively lost the ability to advance the cause of telecommunication competition in Arkansas[.]"<sup>34</sup> MCI argues "that a number of provisions of the Arkansas Act have the effect of prohibiting competitive entry into local markets".<sup>35</sup> TRA argues "the Arkansas Act deprives the Arkansas PSC of the flexibility to perform these pro-competitive functions[.]"<sup>36</sup> The Association for Local Telecommunications Services ("ALTS") argues the Arkansas Act "clearly will have a severe chilling effect upon the Arkansas PSC."<sup>37</sup>

The comments of the proponents of the ACSI's petition do not point to one decision made by the Arkansas PSC that conflicts with the Federal Act. Since Sprint states it has the capability to interpret the Arkansas Act's universal service fund provisions in a way that it consistent with the Federal Act, then it seems appropriate to assume the Arkansas PSC, adopting its own rules and regulations, should have the same capability. This does not mean the Arkansas PSC would have to adopt Sprint's proposals, the Arkansas PSC may adopt its own rules. It is premature and inappropriate to impose Federal preemption prior to the Arkansas PSC adopting universal service rules.

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<sup>34</sup> Sprint Comments p. 2

<sup>35</sup> MCI Comments p. 1

<sup>36</sup> TRA Comments p.10.

<sup>37</sup> ALTS Comments p. 2

Footnote 1 in the comments of AT&T on interconnection is accurate. AT&T candidly admits the need for Commission intervention depends upon how the Arkansas Act is interpreted and applied. The Commission should assume that the Arkansas PSC is informed and capable of properly interpreting and applying the Federal Act. As the Ark. Atty. Gen. points out, a party seeking the preemption of state law has the burden of demonstrating the conflict between the federal and state law.<sup>38</sup>

The Ark. Atty. Gen. establishes that, in practice, the Arkansas PSC has complied with the Federal Act. The Ark. Atty. Gen. points out the SWBT-AT&T arbitration demonstrates, by action, the Arkansas PSC has the resolve and capability to provide a broad interpretation of the Federal Act.<sup>39</sup> The Arkansas Act gives the Arkansas PSC all the authority required to implement the Federal Act. Any preemption of interconnections and arbitrations is not appropriate.

Sprint's admission related to the universal service fund is accurate. Sprint's admission that the universal service provisions may be properly interpreted and administered, depending upon the circumstances, confirms the comments of the opponents of ACSI's petition. The Arkansas Act requires the Arkansas PSC to implement universal service rules.<sup>40</sup> The Commission should assume that the Arkansas PSC is capable of implementing a set of universal service rules that comply with the Federal Act.

The Commission should avoid a textual challenge of the Arkansas Act and focus on the Arkansas PSC's interpretation of the Arkansas Act. The petition should be denied.

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<sup>38</sup> See Ark. Atty. Gen. Comments p. 16.

<sup>39</sup> Id p. 10

<sup>40</sup> See Arkansas Act §4 (c).

## CONCLUSION

The Arkansas Act is carefully worded and provides the Arkansas PSC the authority to fully implement the Federal Act. The Arkansas PSC has demonstrated its ability to properly interpret and administer the provisions of the Federal Act. The Arkansas Act gives the Arkansas PSC significant regulatory authority to establish rules to implement various aspects of the Arkansas Act.

The proponents of ACSI's petition have failed to establish any injury to any potential telecommunication provider. The proponents have failed to establish that any provider was incapable of providing a telecommunication service due to the Arkansas Act. Preemption is not appropriate. The Commission should deny the petition of ACSI.

Respectfully submitted,

ARKANSAS TELEPHONE ASSOCIATION

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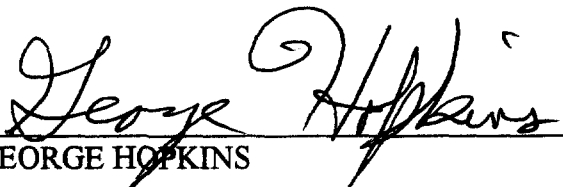
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Arkansas Telephone Co.

Central Arkansas Telephone Cooperative  
Century Telephone of Arkansas  
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Tri-County Telephone Company  
Walnut Hill Telephone Company  
Yelcot Telephone Company  
Yell County Telephone

**CERTIFICATE OF SERVICE**

I, George Hopkins, do hereby certify that the foregoing reply comments of the Arkansas Telephone Association have now been served on this 19<sup>th</sup> day of May, 1997, to the parties of record as listed.

  
\_\_\_\_\_  
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